IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

RCRev..No. 318 of 2007()

RCA.179/2002 of ADDL. DISTRICT COURT (ADHOC-I)/RENT CONTROL APPELLATE AUTHORITY, THALASSERY
I.A.NOS.1939 & 1940/2002 IN RCP.71/1995 of RENT CONTROL/PRL.M.C.,KANNUR

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REVISION PETITIONER/RESPONDENT/RESPONDENT

MEETHALEPRATH LAKSHMANAN, S/O.BAPPU,
MEETHALEPRATH HOUSE, EDACHOVVA,
P.O.CHOVVA, KANNUR DISTRICT.

BY ADV. SRI.K.C.SANTHOSHKUMAR
SMT.K.K.CHANDRALEKHA
SRI.SUDHEESH THAROL

RESPONDENTS/APPELLANT/PETITIONER

KONIPORIYAN RAGHAVAN, S/O.KUNHAMBU,
BUSINESS, RESIDING AT MISSION COMPOUND,
CHOVVA, KANNUR DISTRICT.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.BALAKRISHNAN NAIR &
K.P.BALACHANDRAN, JJ.

R.C.R. NO.318 OF 2007

Dated 14th November, 2007.

ORDER

Balakrishnan Nair, J.

The landlord is the revision petitioner. The respondent is the tenant. The Rent Control Petition was allowed, ordering eviction under Sections 11 (2)(b) and 11(4)(iv) of the Kerala Buildings (Lease and Rent Control) Act (hereinafter referred to as "the Act"). The tenant appealed. The appeal was dismissed. He did not file the petition in time under Section 11(2)(c), to vacate the order under Section 11(2)(b). Therefore, an application was filed for extension of time. Another application to condone the delay in filing the application for extension of time was also filed. They were numbered as I.A.Nos.1939 & 1940/2002 in the said R.C.P. The Rent Controller dismissed both the applications. The tenant appealed. The appellate authority, though noticed that there may not be proper justification for the delay in depositing the defaulted rent, having regard to the totality of the circumstances, condoned the delay and also granted extension of time up to 1.10.2006 to deposit the amount. The order was rendered as early as on 16.9.2006. Against the said order this revision is filed on 31.5.2007.

2. The learned counsel for the petitioner submitted that no application under Section 11(2)(c) of the Act was filed. Therefore, the order of the appellate authority is unjustified.

3. But, we notice that both the authorities treated the application filed by the tenant as one under Section 11(2)(c). We also notice that no prejudice is caused by the same to the landlord. Further, the landlord did not raise any such objection before the appellate authority. If any such objection was raised, the same would have found a place in the judgment of the appellate authority. The order passed is one within the discretion of the appellate authority. Unless the exercise of the discretion is shown to be perverse or the order is one which no man in his senses will pass, this Court is not justified in interfering with the same. A plausible view on the facts has been taken by the appellate authority. So, we are not justified in interfering with the same.

In the result, the revision fails and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

K.P.BALACHANDRAN, JUDGE.

Nm/